Issues in the Provision of Special Education Services

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Topics

- Evaluate an IEP
  - Present Levels
  - Sources of Data
  - Annual Goals and Short-Term Objectives
  - FAPE
  - LRE and the Continuum of Alternative Placements
  - Paraprofessionals
  - Expert Witness and Teacher Qualifications

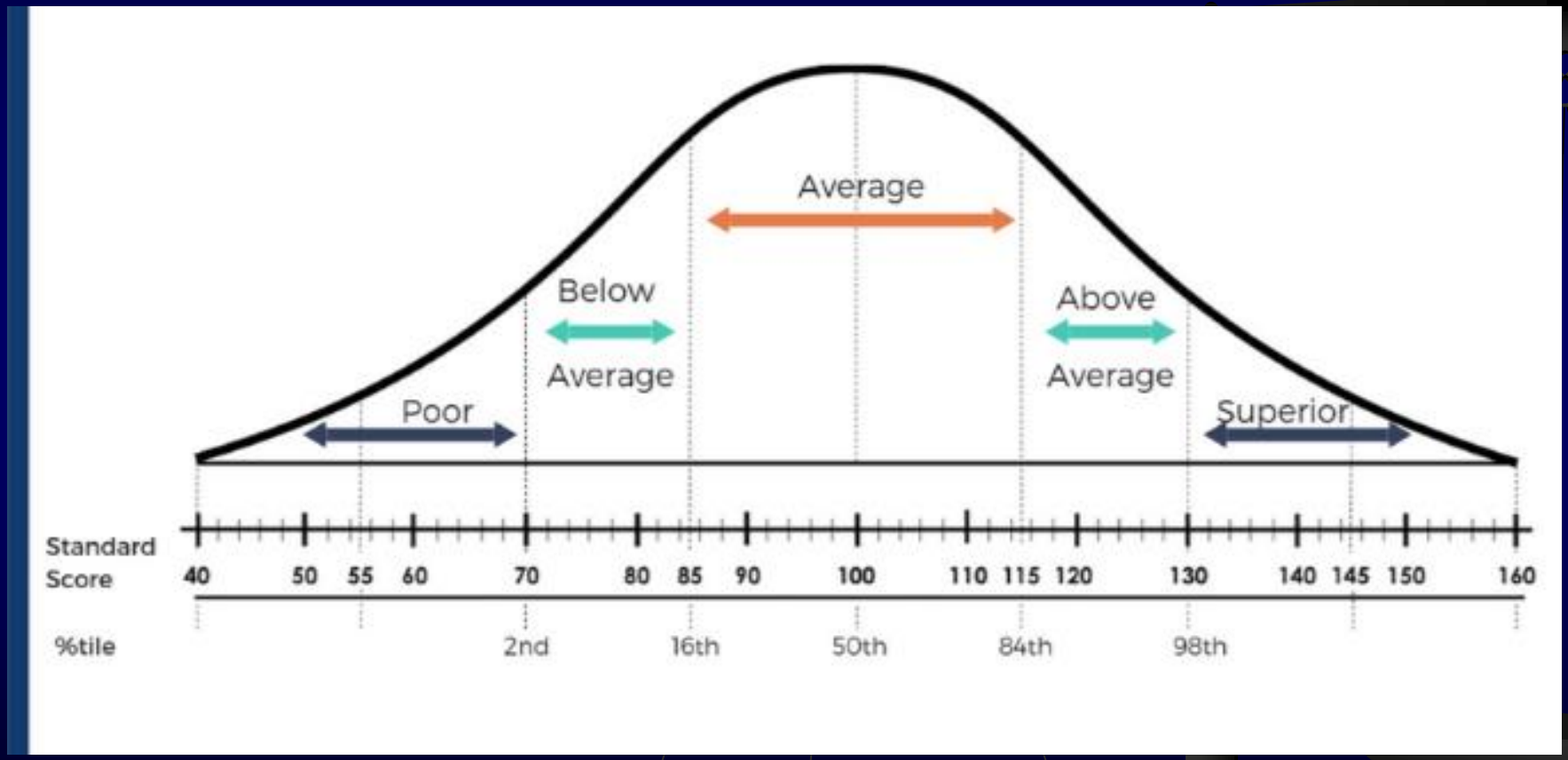
Present Levels

- (1) A statement of the child's present levels of academic achievement and functional performance including:
  - (i) How the child's disability affects the child's progress in the general education curriculum (i.e., the same curriculum as for nondisabled children) or
  - (ii) For preschool children, as appropriate, a description of how the disability affects the child's participation in appropriate activities (300.320)

Present Levels Some Data Sources

- Recommended
  - Curriculum-based measurements:
    - Oral reading fluency
    - Cloze
    - Skills based measures
  - Observation of specific behaviors with data
  - Standardized norm-referenced scores from commercial tests can be supplemental
- Not Recommended
  - Age or grade equivalent scores
  - Norm-referenced scores (e.g., standard scores, percentile ranks) from commercial tests as major descriptor
  - IQ scores

Commercial Norm-Referenced Tests



Present Levels Examples

- Not Acceptable – Academic Skills
  - Rachel's current math level is 3.0 Brigance. Rachel should be able to master basic math skills in math calculation and math applications. Place value, reading, writing, and rounding whole numbers. Word problems should be used with addition and subtraction.

Present Levels Examples

- Acceptable – Academic Skills
  - John has 1:1 correspondence. He accurately differentiates the function signs "+" and "-". On specific level Curriculum-based assessments, John adds and subtracts single digit numbers at a rate of 15 per minute with 100% accuracy. For most problems, he draws tally marks and then counts the marks to determine the correct answer, counts on his fingers, or uses manipulatives. He does not add or subtract numbers with regrouping.

Present Levels Examples

- Acceptable – Functional Skills
  - Miguel is at the beginning of the self-initiated stage of toileting where he verbally indicates a need for elimination (urination only). On average, he indicates the need to use the restroom (urination) three times per day but is already wet by the time he indicates a toileting need. He is compliant and cooperative during toileting and changing activities.
  - When eating, Miguel consistently uses a spoon to eat semi-solid food, such as pudding or apple sauce without spilling. When eating more liquified foods , such as soup or cereal with milk, he spills about half of the contents before getting the spoon to his mouth.

Annual Goals and Short-Term Objectives

- An IEP must contain measurable Annual Goals
  - Some must also contain measurable Short-Term Objectives/benchmarks
- The Annual Goal should derive from the Present Levels.
- Must reference general education curriculum
- Reference to functional skills not in the general education curriculum are the discretion of the IEP team

Annual Goals and Short-Term Objectives

Present Levels of Academic Achievement and Functional Performance

Annual Goals and Short-Term Objectives

MEASURABLE ANNUAL GOAL

When presented with 100 single digit addition and subtraction problems, Jon will correctly answer 90 problems at a rate of 30 per minute during a 3 minute timing.

PRESENT LEVEL

Jon adds and subtracts 25 single digit numbers at 50% accuracy at a rate of 10 per minute, but the standard is 40 problems per minute at 100% accuracy.

Annual Goals and Short-Term Objectives

Present Levels of Academic Achievement and Functional Performance

Annual Goals and Short-Term Objectives

- Short-Term Objectives are a legal requirement of the IEP only for students assessed using alternative standards
- Annual Goals and Short-term Objectives
  - Must be specific in order to be measurable
  - Must not violate the Dead man's rule
  - Must Pass Stranger Test
  - Must Pass the So What Test

Annual Goals and Short-Term Objectives

- Objectives must contain the following elements:
  1. Antecedent:

     the conditions under which the behavior should occur
  2. Behavior:

     statement of exactly what behavior is expected of the student
  3. Criteria:

     the level of proficiency that must be achieved.
  4. The number of times the level of proficiency must be exhibited.

Annual Goals and Short-Term Objectives - Antecedent

1. Antecedent: the conditions under which the behavior should occur

- **Given a worksheet with 40 single digit multiplication facts**, Johan will write correct answer to 38 problems within 60 seconds on 3 consecutive opportunities.
- **When shown two food or drink items and asked to make a selection**, Alexandria will point to one item within 60 seconds once per day for 6 consecutive days.

Annual Goals and Short-Term Objectives - Behavior

2. Behavior: statement of exactly what behavior is expected of the student

- The behavior must be readily observable and others would correctly identify the behavior
- Must be measurable
  - The behavior can be seen or heard
  - The behavior has a beginning and end

Annual Goals and Short-Term Objectives

- Appreciate
- Point
- Say
- Discover
- Investigate
- Read
- Study
- Take off

Walk
Listen
Sit quietly
Work cooperatively
Play nicely
Think critically
Name
Brush

Annual Goals and Short-Term Objectives - Behavior

- Given a worksheet with 40 single digit multiplication facts, **Johan will write correct answer** to 38 problems within 60 seconds on 3 consecutive opportunities.

- When shown two food or drink items and asked to make a selection, **Alexandria will point to one item** within 60 seconds once per day for 6 consecutive days.

Annual Goals and Short-Term Objectives

Criteria

3. Criteria: The level of proficiency that must be achieved.

- Base criteria on projected and desired improvement from baseline performance as indicated in Present Levels
- Performance of a typical peer can be an acceptable criteria
- If you can't determine a criteria (measurement standard) for a particular behavior, then don't write an objective
- Sometimes the criteria and behavior are embedded
- Just putting a % on a behavior does not mean it is measurable
- Not all behaviors must be performed at 100 percent accuracy

Annual Goals and Short-Term Objectives

criteria

- Given a worksheet with 40 single digit multiplication facts, Johan will correctly answer correct answer to **38 problems within 60 seconds** on 3 consecutive opportunities.

- When shown two food or drink items and asked to make a selection, Alexandria will point to **one item within 60 seconds** once per day for 6 consecutive days.

Annual Goals and Short-Term Objectives - Demonstrate Proficiency

4. The number of times the level of proficiency must be exhibited.

- Given a worksheet with 40 single digit multiplication facts, Johan will correctly answer correct answer to 38 problems within 60 seconds on **3 consecutive opportunities.**

- When shown two food or drink items and asked to make a selection, Alexandria will point to one item within 60 seconds **once per day for 6 consecutive days.**

Annual Goals and Short-Term Objectives

In summary, Objectives must:

- Contain the following 4 elements:
  1. Antecedent,
  2. Behavior,
  3. Criteria, and
  4. Number of times to demonstrate proficiency.
- Must not violate the "dead man rule"
- Must pass the stranger test
- Must pass the "so what" test

FAPE - Rowley

- Hendrick Hudson v. Rowley (1982)
  - First EAHCA case heard by the US Supreme Court
    1. Guidelines for determining FAPE
    2. Determined that EAHCA does not require maximizing potential
    3. Upheld previous Court decisions that deferred judgments regarding curriculum and methodology to the school district

FAPE - Rowley

- EAHCA defines FAPE as:
  - Special education and related services which
    - Are provided at public expense, under public supervision and direction, and without charge
    - Meet the standards of the State educational agency
    - Include an appropriate preschool, elementary, or secondary school education in the State involved, and
    - Are provided in conformity with the IEP
    - Permit the child to benefit
    - Approximate the grade levels used in the general education curriculum

FAPE - Endrew

- Student with autism
- IEPs were essentially the same year after year
- District argued for simply more than "de minimis" (trivial) standard met FAPE
- Parents placed Endrew in private school where he made significant growth

FAPE - Endrew

- Unanimous U.S. Supreme Court Decision overturned 10th Circuit Court's "di minimis" standard
- "When all is said and done, a student offered an educational program providing 'merely more than *de minimis*' progress from year to year can hardly be said to have been offered an education at all. For children with disabilities, receiving instruction that aims so low would be tantamount to 'sitting idly . . . awaiting the time when they were old enough to 'drop out. "
- "The IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."

FAPE - Considerations

- Students must have ambitious learning goals
- Data based Present Levels Statements
- Data based Annual Goals and Short-Term Objectives
- The IEP is a living document and progress must be regularly documented
- If the student is removed from the regular class setting, then the placement must not be more restrictive than necessary

LRE and Continuum of Alternative Placements

1. Segregation

   (pre-1975)
2. Mainstreaming (1980s)
3. Integration

   (mid-1980s)
4. Inclusion

   (1990s to present)

Federal Regulations, Part B

- Sec. 300.114 General LRE requirements.

(b) Each public agency shall ensure-

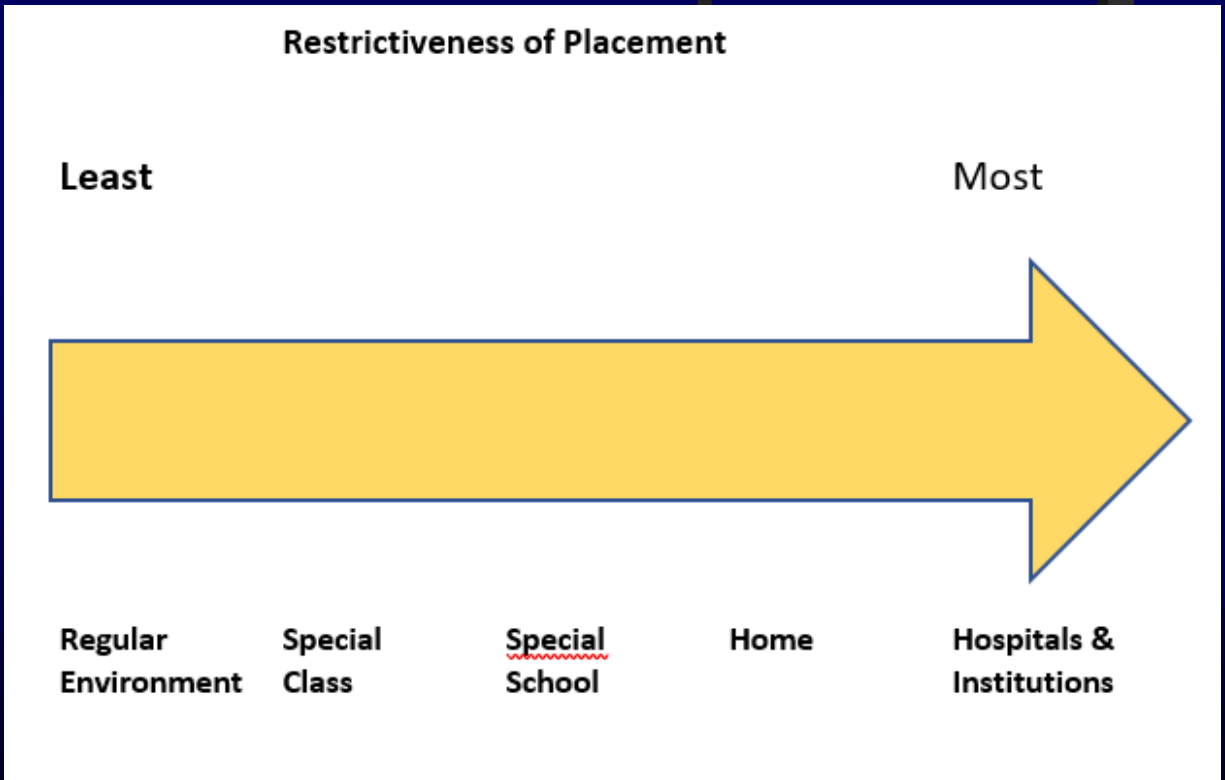
- (1) That to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (2) That special classes, separate schooling or other **removal of children with disabilities from the regular educational environment occurs only** if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Federal Regulations, Part B

- Sec. 300.115 Continuum of alternative placements.
- (a) Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.
- (b) The continuum required in paragraph (a) of this section must-
  - (1) Include the alternative placements listed in the definition of special education under §300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions);

Federal Regulations, Part B

- Sec. 300.115 Continuum of alternative placements.



Federal Regulations, Part B

- Sec. 300.116 Placements
  - (a) The placement decision -
    - (1) The placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
    - (2) Is made in conformity with the LRE provision of this subpart, including 300.114-300.118
  - (b) The child's placement –
    - (1) is determined at least annually;
    - (2) is based on the child's IEP; and
    - (3) is as close as possible to the child's home;

Federal Regulations, Part B

- Sec. 300.116 Placements (cont)
  - (c) unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school he or she would attend if nondisabled;
  - (d) **in selecting the LRE**, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and
  - (e) a child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum

Federal Regulations, Part B

- Sec. 300.117 Nonacademic settings.
  - In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in 300.306, each public agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child.

Paraprofessionals

- Provide Important Supports
- Concerns with use of Parapros
  - Separation from classmates
  - Dependence on adults
  - Impact on peer relations
  - Limitations on competent instruction
  - Interference with ownership and responsibility of regular educators
  - Loss of personal control (Giangreco, et al.)

Guidelines

Teachers

- Teaching certificate and appropriate endorsement
- Dual endorsement (regular and special education)
- Continuing education
- Taking meaningful data related to Goals/objectives

Expert Witness

- Academic credential in relevant area
- Publications
- Ability to articulate positions referencing data
- Avoidance of anecdotes
- Witness for hire?

References

- Giangreco, M. F., Edelman, S. W., Luiselli, T. E., & MacFarland, S. Z. C. (1997). Helping or hovering? Effects of instructional assistant proximity on students with disabilities. *Exceptional Children, 64(1) 7-18.*
- Hyatt, K. J., & Filler, J. (2020). *Developing IEPs: The complete guide to educationally meaningful Individualized Educational Programs for students with disabilities (3rd ed)*. Dubuque, IA: Kendall Hunt Publishing Company.
- Taylor, S. J. (2004). Caught in the continuum: A critical analysis of the principle of the Least Restrictive Environment. *Research & Practice for Persons with Severe Disabilities*, 29, 218-230.